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particular claim is deceptive will depend on the net impression of the advertisement, label, or other promotional material at issue. In addition, although many examples present specific claims and options for qualifying claims, the examples do not illustrate all permissible claims or qualifications under Section 5 of the FTC Act.

[61 FR 27212, May 30, 1996, as amended at 64 FR 33194, June 22, 1999; 75 FR 81453, Dec. 28, 2010]

### § 23.1 Deception (general).

It is unfair or deceptive to misrepresent the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, price, value, preparation, production, manufacture, distribution, or any other material aspect of an industry product.

NOTE 1 TO § 23.1: If, in the sale or offering for sale of an industry product, any representation is made as to the grade assigned the product, the identity of the grading system used should be disclosed.

NOTE 2 TO § 23.1: To prevent deception, any qualifications or disclosures, such as those described in the guides, should be sufficiently clear and prominent. Clarity of language, relative type size and proximity to the claim being qualified, and an absence of contrary claims that could undercut effectiveness, will maximize the likelihood that the qualifications and disclosures are appropriately clear and prominent.

### § 23.2 Misleading illustrations.

It is unfair or deceptive to use, as part of any advertisement, packaging material, label, or other sales promotion matter, any visual representation, picture, televised or computer image, illustration, diagram, or other depiction which, either alone or in conjunction with any accompanying words or phrases, misrepresents the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, preparation, production, manufacture, distribution, or any other material aspect of an industry product.

NOTE TO § 23.2: An illustration or depiction of a diamond or other gemstone that portrays it in greater than its actual size may

mislead consumers, unless a disclosure is made about the item's true size.

### § 23.3 Misuse of the terms "hand-made," "hand-polished," etc.

(a) It is unfair or deceptive to represent, directly or by implication, that any industry product is hand-made or hand-wrought unless the entire shaping and forming of such product from raw materials and its finishing and decoration were accomplished by hand labor and manually-controlled methods which permit the maker to control and vary the construction, shape, design, and finish of each part of each individual product.

NOTE TO PARAGRAPH (a): As used herein, "raw materials" include bulk sheet, strip, wire, and similar items that have not been cut, shaped, or formed into jewelry parts, semi-finished parts, or blanks.

(b) It is unfair or deceptive to represent, directly or by implication, that any industry product is hand-forged, hand-engraved, hand-finished, or hand-polished, or has been otherwise hand-processed, unless the operation described was accomplished by hand labor and manually-controlled methods which permit the maker to control and vary the type, amount, and effect of such operation on each part of each individual product.

### § 23.4 Misrepresentation as to gold content.

(a) It is unfair or deceptive to misrepresent the presence of gold or gold alloy in an industry product, or the quantity or karat fineness of gold or gold alloy contained in the product, or the karat fineness, thickness, weight ratio, or manner of application of any gold or gold alloy plating, covering, or coating on any surface of an industry product or part thereof.

(b) The following are examples of markings or descriptions that may be misleading:<sup>2</sup>

(1) Use of the word "Gold" or any abbreviation, without qualification, to describe all or part of an industry product, which is not composed throughout of fine (24 karat) gold.

<sup>2</sup>See § 23.4(c) for examples of acceptable markings and descriptions.

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(2) Use of the word “Gold” or any abbreviation to describe all or part of an industry product composed throughout of an alloy of gold, unless a correct designation of the karat fineness of the alloy immediately precedes the word “Gold” or its abbreviation, and such fineness designation is of at least equal conspicuousness.

(3) Use of the word “Gold” or any abbreviation to describe all or part of an industry product that is not composed throughout of gold or a gold alloy, but is surface-plated or coated with gold alloy, unless the word “Gold” or its abbreviation is adequately qualified to indicate that the product or part is only surface-plated.

(4) Use of the term “Gold Plate,” “Gold Plated,” or any abbreviation to describe all or part of an industry product unless such product or part contains a surface-plating of gold alloy, applied by any process, which is of such thickness and extent of surface coverage that reasonable durability is assured.

(5) Use of the terms “Gold Filled,” “Rolled Gold Plate,” “Rolled Gold Plated,” “Gold Overlay,” or any abbreviation to describe all or part of an industry product unless such product or part contains a surface-plating of gold alloy applied by a mechanical process and of such thickness and extent of surface coverage that reasonable durability is assured, and unless the term is immediately preceded by a correct designation of the karat fineness of the alloy that is of at least equal conspicuousness as the term used.

(6) Use of the terms “Gold Plate,” “Gold Plated,” “Gold Filled,” “Rolled Gold Plate,” “Rolled Gold Plated,” “Gold Overlay,” or any abbreviation to describe a product in which the layer of gold plating has been covered with a base metal (such as nickel), which is covered with a thin wash of gold, unless there is a disclosure that the primary gold coating is covered with a base metal, which is gold washed.

(7) Use of the term “Gold Electroplate,” “Gold Electroplated,” or any abbreviation to describe all or part of an industry product unless such product or part is electroplated with gold or a gold alloy and such electroplating is of such karat fineness, thickness,

and extent of surface coverage that reasonable durability is assured.

(8) Use of any name, terminology, or other term to misrepresent that an industry product is equal or superior to, or different than, a known and established type of industry product with reference to its gold content or method of manufacture.

(9) Use of the word “Gold” or any abbreviation, or of a quality mark implying gold content (e.g., 9 karat), to describe all or part of an industry product that is composed throughout of an alloy of gold of less than 10 karat fineness.

NOTE TO PARAGRAPH (b) §23.4: The provisions regarding the use of the word “Gold,” or any abbreviation, as described above, are applicable to “Duragold,” “Diragold,” “Noblegold,” “Goldine,” “Layered Gold,” or any words or terms of similar meaning.

(c) The following are examples of markings and descriptions that are consistent with the principles described above:

(1) An industry product or part thereof, composed throughout of an alloy of gold of not less than 10 karat fineness, may be marked and described as “Gold” when such word “Gold,” wherever appearing, is immediately preceded by a correct designation of the karat fineness of the alloy, and such karat designation is of equal conspicuousness as the word “Gold” (for example, “14 Karat Gold,” “14 K. Gold,” or “14 Kt. Gold”). Such product may also be marked and described by a designation of the karat fineness of the gold alloy unaccompanied by the word “Gold” (for example, “14 Karat,” “14 Kt.,” or “14 K.”).

NOTE TO PARAGRAPH (c)(1): Use of the term “Gold” or any abbreviation to describe all or part of a product that is composed throughout of gold alloy, but contains a hollow center or interior, may mislead consumers, unless the fact that the product contains a hollow center is disclosed in immediate proximity to the term “Gold” or its abbreviation (for example, “14 Karat Gold-Hollow Center,” or “14 K. Gold Tubing,” when of a gold alloy tubing of such karat fineness). Such products should not be marked or described as “solid” or as being solidly of gold or of a gold alloy. For example, when the composition of such a product is 14 karat gold alloy,

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it should not be described or marked as either "14 Kt. Solid Gold" or as "Solid 14 Kt. Gold."

(2) An industry product or part thereof, on which there has been affixed on all significant surfaces, by any process, a coating, electroplating, or deposition by any means, of gold or gold alloy of not less than 10 karat fineness that is of substantial thickness,<sup>3</sup> and the minimum thickness throughout of which is equivalent to one-half micron (or approximately 20 millionths of an inch) of fine gold,<sup>4</sup> may be marked or described as "Gold Plate" or "Gold Plated," or abbreviated, as, for example, G.P. The exact thickness of the plate may be marked on the item, if it is immediately followed by a designation of the karat fineness of the plating which is of equal conspicuousness as the term used (as, for example, "2 microns 12 K. gold plate" or "2μ 12 K. G.P." for an item plated with 2 microns of 12 karat gold.)

NOTE TO PARAGRAPH (c)(2): If an industry product has a thicker coating or electroplating of gold or gold alloy on some areas than others, the minimum thickness of the plate should be marked.

(3) An industry product or part thereof on which there has been affixed on all significant surfaces by soldering, brazing, welding, or other mechanical means, a plating of gold alloy of not less than 10 karat fineness and of substantial thickness<sup>5</sup> may be marked or described as "Gold Filled," "Gold Overlay," "Rolled Gold Plate," or an adequate abbreviation, when such plating constitutes at least 1/20th of the weight of the metal in the entire article and when the term is immediately preceded by a designation of the karat fineness of the plating which is of equal con-

spicuousness as the term used (for example, "14 Karat Gold Filled," "14 Kt. Gold Filled," "14 Kt. G.F.," "14 Kt. Gold Overlay," or "14K. R.G.P.>"). When conforming to all such requirements except the specified minimum of 1/20th of the weight of the metal in the entire article, the terms "Gold Overlay" and "Rolled Gold Plate" may be used when the karat fineness designation is immediately preceded by a fraction accurately disclosing the portion of the weight of the metal in the entire article accounted for by the plating, and when such fraction is of equal conspicuousness as the term used (for example, "1/40th 12 Kt. Rolled Gold Plate" or "1/40 12 Kt. R.G.P.>").

(4) An industry product or part thereof, on which there has been affixed on all significant surfaces by an electrolytic process, an electroplating of gold, or of a gold alloy of not less than 10 karat fineness, which has a minimum thickness throughout equivalent to .175 microns (approximately 7/1,000,000ths of an inch) of fine gold, may be marked or described as "Gold Electroplate" or "Gold Electroplated," or abbreviated, as, for example, "G.E.P." When the electroplating meets the minimum fineness but not the minimum thickness specified above, the marking or description may be "Gold Flashed" or "Gold Washed." When the electroplating is of the minimum fineness specified above and of a minimum thickness throughout equivalent to two and one half (2½) microns (or approximately 100/1,000,000ths of an inch) of fine gold, the marking or description may be "Heavy Gold Electroplate" or "Heavy Gold Electroplated." When electroplatings qualify for the term "Gold Electroplate" (or "Gold Electroplated"), or the term "Heavy Gold Electroplate" (or "Heavy Gold Electroplated"), and have been applied by use of a particular kind of electrolytic process, the marking may be accompanied by identification of the process used, as for example, "Gold Electroplated (X Process)" or "Heavy Gold Electroplated (Y Process)."

(d) The provisions of this section relating to markings and descriptions of industry products and parts thereof are subject to the applicable tolerances of

<sup>3</sup>The term *substantial thickness* means that all areas of the plating are of such thickness as to assure a durable coverage of the base metal to which it has been affixed. Since industry products include items having surfaces and parts of surfaces that are subject to different degrees of wear, the thickness of plating for all items or for different areas of the surface of individual items does not necessarily have to be uniform.

<sup>4</sup>A product containing 1 micron (otherwise known as 1μ) of 12 karat gold is equivalent to one-half micron of 24 karat gold.

<sup>5</sup>See footnote 3.

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the National Stamping Act or any amendment thereof.<sup>6</sup>

NOTE 4 TO PARAGRAPH (d): Exemptions recognized in the assay of karat gold industry products and in the assay of gold filled, gold overlay, and rolled gold plate industry products, and not to be considered in any assay for quality, are listed in the appendix.

### § 23.5 Misuse of the word “vermeil.”

(a) It is unfair or deceptive to represent, directly or by implication, that an industry product is “vermeil” if such mark or description misrepresents the product’s true composition.

(b) An industry product may be described or marked as “vermeil” if it consists of a base of sterling silver coated or plated on all significant surfaces with gold, or gold alloy of not less than 10 karat fineness, that is of substantial thickness<sup>7</sup> and a minimum thickness throughout equivalent to two and one half (2½) microns (or approximately  $\frac{100}{1,000,000}$ ths of an inch) of fine gold.

NOTE 1 TO § 23.5: It is unfair or deceptive to use the term “vermeil” to describe a product in which the sterling silver has been covered with a base metal (such as nickel) plated with gold unless there is a disclosure that the sterling silver is covered with a base metal that is plated with gold.

NOTE 2 TO § 23.5: Exemptions recognized in the assay of gold filled, gold overlay, and rolled gold plate industry products are listed in the appendix.

### § 23.6 Misrepresentation as to silver content.

(a) It is unfair or deceptive to misrepresent that an industry product contains silver, or to misrepresent an industry product as having a silver content, plating, electroplating, or coating.

(b) It is unfair or deceptive to mark, describe, or otherwise represent all or part of an industry product as “silver,” “solid silver,” “Sterling Silver,” “Sterling,” or the abbreviation “Ster.”

<sup>6</sup>Under the National Stamping Act, articles or parts made of gold or of gold alloy that contain no solder have a permissible tolerance of three parts per thousand. If the part tested contains solder, the permissible tolerance is seven parts per thousand. For full text, see 15 U.S.C. 295, *et seq.*

<sup>7</sup>See footnote 3.

unless it is at least  $\frac{925}{1,000}$ ths pure silver.

(c) It is unfair or deceptive to mark, describe, or otherwise represent all or part of an industry product as “coin” or “coin silver” unless it is at least  $\frac{900}{1,000}$ ths pure silver.

(d) It is unfair or deceptive to mark, describe, or otherwise represent all or part of an industry product as being plated or coated with silver unless all significant surfaces of the product or part contain a plating or coating of silver that is of substantial thickness.<sup>8</sup>

(e) The provisions of this section relating to markings and descriptions of industry products and parts thereof are subject to the applicable tolerances of the National Stamping Act or any amendment thereof.<sup>9</sup>

NOTE 1 TO § 23.6: The National Stamping Act provides that silverplated articles shall not “be stamped, branded, engraved or imprinted with the word ‘sterling’ or the word ‘coin,’ either alone or in conjunction with other words or marks.” 15 U.S.C. 297(a).

NOTE 2 TO § 23.6: Exemptions recognized in the assay of silver industry products are listed in the appendix.

### § 23.7 Misuse of the words “platinum,” “iridium,” “palladium,” “ruthenium,” “rhodium,” and “osmium.”

(a) It is unfair or deceptive to use the words “platinum,” “iridium,” “palladium,” “ruthenium,” “rhodium,” and “osmium,” or any abbreviation to mark or describe all or part of an industry product if such marking or description misrepresents the product’s true composition. The Platinum Group Metals (PGM) are Platinum, Iridium, Palladium, Ruthenium, Rhodium, and Osmium.

(b) The following are examples of markings or descriptions that may be misleading:<sup>10</sup>

<sup>8</sup>See footnote 3.

<sup>9</sup>Under the National Stamping Act, sterling silver articles or parts that contain no solder have a permissible tolerance of four parts per thousand. If the part tested contains solder, the permissible tolerance is ten parts per thousand. For full text, see 15 U.S.C. 294, *et seq.*

<sup>10</sup>See paragraph (c) of this section for examples of acceptable markings and descriptions.